

RKW, LLC

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ATLAS DATA PRIVACY
CORPORATION, et al.,

Plaintiffs,

v.

E-MERGES.COM INC., et al.,

Defendants.

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Civil Action No.: 1:24-cv-04434-HB

**MEMORANDUM IN SUPPORT OF
MOTIONS TO DISMISS**
(Citations Updated)

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eMerges.com. Inc. (“eMerges.com”), by its attorneys, submits the following memorandum in support of its motion to dismiss pursuant to Rules 12(b)(2) and 12(b)(6) of the Federal Rules of Civil Procedure.

The present case is one of 30+ cases pending before the Court brought by Atlas Data Privacy Corporation and individual plaintiffs against various entities alleging violations of Daniel’s Law, N.J.S.A.47:1A-1, *et seq.* eMerges.com joined the consolidated motion to dismiss the Complaints on the ground that Daniel’s Law violated the First Amendment of the United States Constitution on its face. The Court denied that motion, but United States Court of Appeals for the

Third Circuit has granted the parties' petition for an interlocutory appeal of the Court's denial. *See* ECF Doc. 49.

Prior to the Court's entry of its Order of January 22, 2025, all matters, other than those claiming that Daniel's Law violated the First Amendment on its face, were stayed. *See* ECF Doc. 45. On January 22, 2025, the Court set a deadline of March 18, 2025, for each party to file an answer or a pre-trial motion. *See* ECF Doc. 45. Two consolidated motions to dismiss, one based on Rule 12(b)(2) and the other based on Rule 12(b)(6), are being filed on behalf of multiple parties. eMerges.com is a party to each of the motions to dismiss and incorporates the memoranda in support of those motions by reference. *See Atlas Data Privacy Corp. GoHunt, LLC*, Case No. 1:24-cv-04380-HB (Doc. 42); *Atlas Data Privacy Corp. v. DM Group*, Case No. 1:24-cv-4075-HB (Doc 59).

Attached to this Memorandum is the Declaration of Shawn J. Harmon, eMerges.com's President and sole shareholder ("Harmon Declaration"). eMerges.com has no contact with New Jersey that would support this Court's exercise of personal jurisdiction over it. *See* Harmon Declaration generally. Of special significance, no person or entity can obtain any information regarding any person directly from eMerges.com's website. eMerges.com never has had any public or private lookup option. The only way that a person or entity can obtain information about a person from eMerges.com is to enter into an agreement to buy information from it. *See* Harmon Declaration, Paragraph 12. To apply Daniel's law to eMerges.com would be an unconstitutional extraterritorial application of New Jersey law. eMerges.com incorporates by reference the argument and authorities cited in Part II.A (The Complaint Fails to State a Claim Because Daniel's Law Does Not Apply Extraterritorially) of Defendants' Supporting Brief in Support of Their

Motions to Dismiss the Complaints filed in *Atlas Date Privacy Corp. v. We Inform, LLC*, Case No. 1:24-cv-4037-HB (Doc. 45-1 at pages 20-23).

For the reasons stated above, the Plaintiffs' Complaint should be dismissed with prejudice.

Respectfully submitted,

RKW, LLC

By: /s/ H. Mark Stichel

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of March 2025, a copy of the foregoing Updated Memorandum in Support of its Motion to Dismiss (ECF 50) was sent via the courts electronic filing system to all counsel of record.

By: /s/ H. Mark Stichel

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